

The Office Action also alleges that Group I and Group III, IV claims are related as product and process of use. Applicants submit that claims belonging to Groups III and IV depend on Group I claims such as claims 1-6. Pursuant to MPEP 821.04, “[w]here product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. 121 to elect claims to either the product or process. See MPEP § 806.05(f) and § 806.05(h). The claims to the nonelected invention will be withdrawn from further consideration under 37 CFR 1.142. See MPEP § 809.02(c) and § 821 through § 821.03. However, if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.” Therefore, even if Group III and IV claims are withdrawn from consideration as being directed to non-elected inventions, these claims should be rejoined and be examined after allowance of Group I claims upon which Group III and IV claims depend.

Based on the above arguments, Applicants respectfully request reconsideration and withdrawal of the restriction requirement, at least the restriction between Group I and Group III, IV claims.

The Office Action has also requested election among several patentably distinct species. Applicants hereby elect with traverse, and for search purposes only, B-cell non-Hodgkin’s lymphoma and its derived cell line KARPAS-422 for species (a) (tumor cells and cell lines in claims 12-16 and 51); GPC-8-27-41 for species (b) (clones recited in claims 22, 23, 67, 80, 81, and 115); and multiple sclerosis for species (c) (disorders recited in claims 53, 54, 106, and 107).

For species (a) election, Applicants submit that these species are all lymphoid tumor cells derived from activated lymphoid cells, thus it is expected that they share such molecular markers as similar cell surface antigens. The same can be argued for their derived cell lines such as KARPAS-422 and GRANTA-519. Especially for the cell line election, Applicants submit that both the GRANTA-519 cell line and the KARPAS-422 cell line are derived from B-cell non-Hodgkin’s lymphoma, thus at least these two cell lines should be searched simultaneously. Currently, the elected species B-cell non-Hodgkin’s lymphoma reads on claims 1-12, 18-38, 43,

55, 56, 59-63, 66-73, 75-95, and 109-115; the elected species KARPAS-422 cell line reads on claims 1-11, 13-15, 18-38, 43, 55, 56, 59-63, 66-73, 75-95, and 109-115.

For species (b) election, the elected species (GPC-8-27-41) reads on claims 1-38, 43, 55, 56, 59-63, 66-95, and 109-115.

For species (c) election, the elected species (multiple sclerosis) reads on claims 1-38, 43, 55, 56, 59-63, 66-95, and 109-115.

In addition, Applicants note that claims 1-11, 17-21, 24, 26, 28, 30-50, 52, 55, 57-66, 68-79, 82, 84, 88-105, 108-114, and 116 are generic claims linking elected and non-elected species. Pursuant to MPEP 809.04, “[i]f a linking claim is allowed, the examiner must thereafter examine species if the linking claim is generic thereto, or he or she must examine the claims to the non-elected inventions that are linked to the elected invention by such allowed linking claim.” Thus, restrictions imposed on species encompassed by generic claims must be withdrawn upon indication of an allowable generic claim (MPEP 809). In other words, upon the allowance of a generic claim, Applicants are entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141 (MPEP 809.02(a)).

Also regarding the species election requirement, Applicants submit that species subjected to election are encompassed by Markush groups. Pursuant to MPEP 803.02, “If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all claims on the merits, even though they are directed to independent and distinct inventions.” Applicants submit that such is the case at least for species election (c) directed to diseases. In addition, Applicants respectfully point out that the search of the Markush-type claim will be extended to non-elected species should no prior art be found that anticipates or renders obvious the elected species (MPEP 803.02).

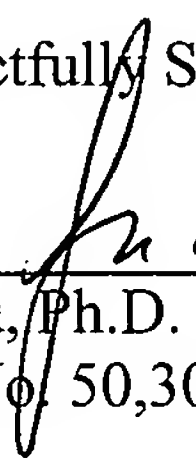
Applicants have amended claims 12 and 51 to correct obvious mistakes. As a skilled artisan would appreciate, there is no “multiple myeloid leukemia,” and the correction to “multiple myeloma” would be obvious to a skilled artisan.

The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should any additional extension of time be required, Applicants hereby petition therefor and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

Respectfully Submitted,

Date: December 3, 2002

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